

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

UNITED STATES OF AMERICA,)	
Plaintiff)	
)	
v.)	No. <u>6:20-cv-06094 RTD</u>
)	
QUAPAW HOUSE, INC.,)	
MALVERN NATIONAL BANK,)	
Defendant)	

CONSENT JUDGMENT

Plaintiff, the United States of America, having filed its Complaint herein, and the defendant, Malvern National Bank, having consented to the making and entry of this Judgment without trial, hereby agree as follows:

1. This Court has jurisdiction over the subject matter of this litigation and over all parties thereto. The Complaint filed on September 1, 2020, states a claim upon which relief can be granted. (Doc. 02)

2. The defendant, Malvern National Bank, was timely served with a Summons and a copy of the Complaint on September 10, 2020 and subsequently filed an answer on September 16, 2020. (Doc. 05)

3. The defendant, Quapaw House, Inc., was timely served with a Summons and a copy of the Complaint on September 29, 2020 and has failed to appear or otherwise defend as provided by the Federal Rules of Civil Procedure.

4. The real property at issue in this quiet title action is located at 225 and 227 Hazel Street, Hot Springs, Arkansas, in Garland County, Arkansas (the “Property”), and is more particularly described as follows:

A tract of land in the County of Garland, State of Arkansas, to wit:

BEING a parcel of land located in Hot Springs, Garland County, Arkansas and being a part of Lot 2 of Whittington’s Subdivision of Lot 12, Block 93 of the United States Hot Springs Reservation, as surveyed and platted by the United States Hot Springs Commissioners, said Parcel being the same land conveyed to Mrs. Ola Lambert by Warranty Deed No. (not numbered) recorded in Volume 259, Page 420 of the Warranty Deed records of Garland County, Hot Springs, Arkansas, and being more particularly described as follows:

BEGINNING at the Northwest corner of Lot 2 of Whittington’s Subdivision of Lot 12, Block 93, of the United States Hot Springs Reservation: being S 42°30’E, a distance of 300.00 feet from the North corner of Block 93 of the United States Hot Springs Reservation; THENCE S 42°30’E with the South ROW line of Hazel Street a distance of 50.00 feet to an “X” in a brass capped monument set for corner in the North line of said Lot 2; THENCE S 47°23’W a distance of 157.20 feet to an “X” in a brass capped monument set for corner in the South line of Lot 2; THENCE N 56°37’E with the South line of Lot 2 a distance of 51.00 feet to the Southwest corner of Lot 2; same point being the Southeast corner of Lot 11, Block 93; THENCE N 47°13’E with the common line between Lots 2 and 11 a distance of 169.65 feet to the point of beginning and containing 8,132.37 square feet of land. All bearings in this description are Magnetic and have a 6°30’ deviation Easterly.

And

A Parcel of land located in Hot Springs, Garland County, Arkansas and being Lot 11, Block 93 of the Hot Springs Reservation, as surveyed and platted by the United States Hot Springs Commissioners. SAVE and EXCEPT a 6.00 feet by 100.00 feet perpetual right of way easement granted to the Standard Ice Company by Anne L. Midnight by deed recorded in Volume 158, Page 444, Records of Deeds and Mortgages of Cameron County, Arkansas, said Parcel being the same land conveyed to Karel A. Janota by Warranty Deed No. 10929, recorded in Volume 511, Page 650 of the Warranty Deed Records of Garland County, Hot Springs, Arkansas, and being more particularly described as follows:

BEGINNING at a point on the South ROW line of Hazel Street and the North line of Lot 11, Block 93 of the United States Hot Springs Reservation. The same point being the Northeast corner of a 6.00 feet by a 100.00 feet perpetual easement granted to the Standard Ice Company and being South 42°30' East 206.00 feet from the North corner of Block 93 at the intersection of the South ROW line of Hazel Street and the East ROW line of Ouachita Avenue;

THENCE South 42°30' East with the South ROW line of Hazel Street a distance of 94.00 feet to the Northeast corner of Lot 11, Block 93; same being the Northwest corner of Lot 2 of Whittington Subdivision of Lot 12, Block 93 of the United States Hot Springs Reservation;

THENCE South 47°13' West with the common line between Lots 11 and 2 a distance of 169.65 feet to the Southeast corner of said Lot 11;

THENCE North 56°37' West with the South line of Lot 11 a distance of 104.00 feet to an "X" in a brass capped monument set at the Southwest corner of Lot 11;

THENCE North 47°30' East with the West line of said Lot 11 a distance of 95.00 feet to a point for corner; said point being the Southwest corner of a 6.00 feet by 100.00 feet perpetual easement; thence South 42°30' East with the South line of said easement a distance of 6.00 feet to the Southeast corner of said easement. Thence North 47°30' East with the East line of said easement a distance of 100.00 feet to the point of beginning and containing 17,714.40 square feet of land. All bearings in this description are Magnetic and have a 6°30' deviation Easterly.

And

A Parcel of land located in Hot Springs, Garland County, Arkansas and being a part of Lot 11, Block 93 of the Hot Springs Reservation, as surveyed and platted by the United States Hot Springs Commissioners, and being more particularly described as follows: BEGINNING at an "X" in a brass capped concrete monument set in the South ROW line of Hazel Street, at the Northwest corner of Lot 11, Block 93 of the United States Hot Springs Reservation, same being the Northwest corner of this Parcel, and being S 42°30'E, at a distance of 200.00 feet from the North corner of Block 93 at the intersection of the South ROW line of Hazel Street with the East ROW line of Ouachita Avenue;

THENCE S 42°30' E with the South ROW line of Hazel Street a distance of 6.00 feet to a point for corner

THENCE S 47°30' W a distance of 100.00 feet to a point for corner;

THENCE N 42°30' W a distance of 6.00 feet to a point for corner in the West line of Lot 11, Block 93;

THENCE N 47°30' E with the West line of said Lot 11 a distance of 100.00 feet to the point of beginning and containing 600.00 square feet of

land. All bearings in this description are Magnetic and have a 6°30' deviation Easterly.

5. On or about September 3, 2003, the United States of America, through the United States Department of Health and Human Services (“HHS”), transferred the Property to Quapaw House, Inc., by Quitclaim Deed (“Deed”). The Deed contained conditions subsequent that limited the use of the Property to the specific authorized purpose and prevented Quapaw House from mortgaging or encumbering the Property unless authorized in writing by HHS. HHS retained a reversionary interest in the Property that was triggered by violation of the conditions subsequent.

6. The Deed was recorded in the Garland, County, Arkansas, Clerk’s Office at Book 2328 and Page 0865.

7. On October 25, 2019, Pat Parker, on behalf of Quapaw House, without first getting written approval from HHS as required by the terms of the Deed, executed and conveyed to Malvern National Bank, a mortgage, identified as loan number X7681, on the Property as well as 505 W. Grand Avenue, Hot Springs, Arkansas 71901.

8. On October 25, 2019, Pat Parker, on behalf of Quapaw House, without first getting written approval from HHS as required by the terms of the Deed, executed and conveyed to Malvern National Bank, a mortgage, identified as loan number X7592, on the Property as well as 505 W. Grand Avenue, Hot Springs, Arkansas 71901.

9. By virtue of the mortgages executed by Quapaw House on October 25, 2019, the condition subsequent event identified in the Government’s reversionary interest in the Property has been triggered and that the United States has an immediate right of reentry and right to take possession to the Property, and to cause all right, title, and interest in and to the Property to revert to the United States.

10. All right, title, and interest in and to the Property and to any and all of the tenements, hereditaments, and appurtenances thereunto belonging to Defendant Quapaw House, its successors and assigns, is hereby revested in the United States.

11. The defendant, Malvern National Bank, hereby agrees to the entry of Judgment in that the Quitclaim Deed to the above described real property is hereby revested in the United States and all interest, right, claim, and lien held by defendant, Malvern National Bank, is extinguished.

12. Plaintiff, United States of America, and defendant, Malvern National Bank, hereby agree that each party is responsible for their own costs and attorney's fees related to this lawsuit.

13. This Consent Judgment shall be recorded among the records of Garland County, Arkansas, to reflect that the United States of America is vested with the absolute and unencumbered title, in fee simple to the Property.

IT IS THEREFORE, ORDERED, ADJUDGED and DECREED that the plaintiff recover and have judgment against the defendant, Malvern National Bank, for quiet title in the property and awarding the United States of America exclusive possession of the Property.

IT IS SO ORDERED THIS 21st day of December 2020.

/s/Robert T. Dawson

Robert T. Dawson
Senior United States District Judge

Approved by:

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